

# CRIMINAL CONVICTIONS, DISCLOSURES AND BARRING (Staff Policy and Procedure)

Date of Publication: April 2017  
Date of Review: April 2022

<b>No</b>	<b>Table of Contents</b>	<b>Page</b>
1	Scope and purpose	3
2	Policy statement on the recruitment and employment of staff with criminal convictions	3
3	The disclosure of convictions and the consideration of offers of employment	4
4	Process for DBS checks	5
5	Considerations of convictions	6
6	Disclosure of criminal convictions during employment	7
7	Secure storage, handling, use, retention and disposal of disclosures and disclosure information	7
8	Review	8
<b>No</b>	<b>Appendices</b>	<b>Page</b>
1	Regulated Activity for Children	9
2	Jobs requiring a DBS check	10
3	Procedure for handling a disclosure of a criminal record of current and potential employees	12
4	Risk Assessment Form	13

## **1. Scope and purpose**

- 1.1. The policy outlines the University's arrangement on the recruitment and employment of staff with criminal convictions, the use of disclosures, the storage and use of information and convictions which have been disclosed by the Disclosure and Barring Service (DBS).
- 1.2. The policy applies to all potential and current staff, including individuals who have an honorary contract with the University, temporary workers, agency staff, and individuals engaged with the University on a self-employed contract basis. To ensure that applicants are aware of this policy, it will be provided at the outset of the recruitment process for roles where a disclosure will be required as part of the pre-employment checks.
- 1.3. It is the responsibility of the procurement manager in the provision of contracts / contractors (that are not employees of the University) such as Elixor, Bouygues etc. to comply with the appropriate checks as required in alignment with the [University's Safeguarding Children Policy](#).
- 1.4. The University requires staff employed in certain roles to undergo a DBS check every five years, after a break of service or sooner where this is a requirement for particular operational or organisational reasons. In situations where staff are appointed to or promoted to new roles within the University that require a DBS check, this will be undertaken if the staff member does not already have a DBS check.
- 1.5. The DBS update service allows the University to undertake a status check to see if any information has come to light since the certificate was issued. Re-checks can be done using the update service where appropriate.
- 1.6. The Human Resources Department will maintain a central register of all staff checked, and roles due to be re-checked every 5 years.
- 1.7. The University is a registered user of the DBS and will comply with their [code of practice](#) and undertakes to treat all applicants / employees fairly and consistently. The University will not discriminate unfairly on the basis of convictions or other information revealed in a disclosure.

## **2. Policy statement on the recruitment and employment of staff with criminal convictions**

- 2.1. The University is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their skills, abilities, experience, knowledge, qualification and training.
- 2.2. The Rehabilitation of Offenders Act 1974 (ROA) Exceptions Order 1975 provides that ex-offenders are not usually required to disclose to prospective employers, convictions defined as 'spent' under the Act. It is the University's policy to require applicants to disclose any 'unspent' criminal convictions as part of their application, except in the case of applications for jobs which are eligible for a disclosure where all convictions should be disclosed.

2.3. Having a criminal record will not necessarily bar an applicant or existing employee from working for the University the nature of a disclosed conviction and its relevance to the job will be considered. The University will establish the suitability and risk posed by the individual in relation to the position.

2.4. Where a conviction has been disclosed in an individual's application for a job or subsequently when employed, a discussion will take place to consider and determine the relevance of the offence to the position. Failure to reveal information relating to unspent convictions could lead to the withdrawal of an offer of employment or disciplinary action.

### **3. The disclosure of convictions and the consideration of offers of employment**

3.1. The DBS assists employers in making safer recruitment / employment decisions by enabling organisations to identify candidates who are unsuitable for certain work, particularly work which involves undertaking Regulated Activity. It may also be relevant for occupations which are exceptions to the ROA.

3.2. A disclosure will only be requested for roles that indicate one is proportionate and relevant to the position concerned, such as the roles listed in Appendix 2. The DBS provide guidance on the eligibility for disclosures.

3.3. There are four types of Disclosure and Barring Service (DBS) checks. With an enhanced disclosure it is possible to obtain a barred list check to identify whether an individual is barred from working with either children or vulnerable adults. The DBS will remove certain specified old and minor offences in line with the DBS filtering rules.

**3.3.1. Basic disclosures** shows details of unspent convictions only.

**3.3.2. Standard disclosures** can be obtained for positions included in the ROA 1974 (Exceptions) Order. A standard disclosure will contain details of spent and unspent convictions, cautions, reprimands and final warnings that have not been filtered.

**3.3.3. Enhanced disclosures** can only be obtained for positions listed in the ROA 1974 (Exceptions) Order 1975 and the Policy Act 1997 (Criminal Records Regulation). An enhanced disclosure will contain the same details as a standard disclosure as well as a check of local police records.

**3.3.4. Enhanced Disclosures with Barred List Checks** with a children's and / or adults barred list check can be obtained for positions which meet the current definition on regulated activity. The definitions of regulated activity related to children, are detailed in Appendix 1. The barred list check will identify if the individual has been barred from working with the appropriate vulnerable group.

3.4. **Appendix 2** indicates those jobs at the University which are likely to meet the requirements for a disclosure.

3.5. It is the responsibility of schools and departments to advise the Human Resources Department of existing posts where DBS checks becomes necessary as a result of new or changing duties, for example roles that require contact with children or a requirement organisationally.

- 3.6. The DBS will assess relevant information on individual DBS applications and, where they believe this indicates that the individual poses a risk, bar them from working in a regulated activity.
- 3.7. A person who is barred from undertaking regulated activity will be breaking the law if they work or volunteer, or try to work or volunteer with vulnerable groups.
- 3.8. University Senior Officers who knowingly employ someone in a job undertaking regulated activity who is barred from undertaking regulated activity may be breaking the law.

#### **4. Process for DBS checks**

- 4.1. When submitting the job specification for a role and the recruitment pack for STONEFISH (the online recruitment system), a hiring manager should select the appropriate option to indicate whether or not the post requires a DBS disclosure (in line with appendix 2). If 'yes' the advertisement will contain a clear statement to this effect. Potential applicants need to be aware that a DBS disclosure is required as part of the application process.
- 4.2. An offer of employment for a post requiring a DBS check will be conditional on receipt of a disclosure satisfactory to the University. This requirement will be in addition to the job applicant satisfying the University's usual requirements for employment (for example to provide satisfactory references and produce documentation establishing his / her identity and right to work in the UK).
- 4.3. To enable the job applicant to carry out the DBS check, the University will provide the applicant for the post with an application form and ask him / her to complete and return the form to the University along with the required documents to undertake the identity check.
- 4.4. For persons who have changed their names by deed poll, a record of all previous and current full names will need to be submitted for a DBS check.
- 4.5. The University will send the completed form to the DBS. Once the check has been carried out, the DBS will send the certificate to the applicant. The University will ask the job applicant for sight of the original DBS certificate.
- 4.6. Where the job applicant for the post is a member of the DBS Update Service, the University will, with his / her permission, carry out a status check on any current certificates. If an individual already has a check of the same type and level and has subscribed to the DBS Update Service, the University will accept disclosures obtained by other organisations.
- 4.7. All temporary and hourly paid staff and lecturers should be checked in the same way as permanent contract staff for roles that require a DBS check.
- 4.8. Where an employment agency is contracted to provide temporary staff to the University to fill a post where a DBS check is required, it is the responsibility of the agency to undertake all necessary pre-employment checks including a DBS disclosure. The

recruiting manager and the Human Resources Department should ensure that evidence is provided by the agency and recorded.

4.9. The DBS Update Service allows individuals to keep their DBS certificate up to date and take it with them from role to role or within the same workforce where the same type and level of check is required. Up to date costs can be obtained from DBS directly by visiting their website.

## **5. Consideration of convictions**

5.1. Not all criminal convictions will be a bar to employment. The results of a disclosure or DBS check will be considered on an individual basis and the University will act in a proportionate manner when deciding whether or not to proceed with the appointment to the post in question.

5.2. Where a disclosure identifies convictions or other relevant information, the Chair of the appointment panel will make a decision in conjunction with the relevant Human Resources Partner and in discussion with the Head of Human Resources and appropriate VCE member, about whether any action needs to be taken. This will include ascertaining details of the offence from the applicant / employee either through a discussion or by obtaining a statement from them.

5.3. In making a decision, the following information should be considered:

- The seriousness of the offence and its relevance to the safety of other employees / students / members of the public.
- The length of time since the offence occurred.
- Whether the offence was a one-off or part of a history of offending.
- Any relevant information offered by the applicant about the circumstances that led to the offence being committed.
- Whether the individual has disclosed the offence – for example in an application or interview.

A record of the decision made will need to be kept on the recruitment file.

5.4. For new appointments if the decision is not to appoint, a letter will be sent to the applicant withdrawing the offer of employment and stating the reasons for this decision.

5.5. Where either the job applicant refuses to agree to an application to the DBS or a DBS check is completed but the job applicant refuses to allow the University to see the DBS certificate, he / she will be treated as not having satisfactorily completed the DBS check.

5.6. Job applicants **will not be permitted** to commence employment with the University until all specified conditions are satisfied.

5.7. Recruiting managers should ensure potential new applicants do not start their role until clearance has been received. Only in very exceptional circumstances and with agreement from the Head of Human Resources can members of staff commence work prior to receiving clearance. The recruiting manager will be required to complete a risk

assessment (Appendix 4) to demonstrate safeguarding practices will apply in those exceptional circumstances where individuals start work prior to clearance. A copy of the risk assessment should be provided to the Human Resources Partner (to be signed by the Head of Human Resources) for the recruitment file.

## **6. Disclosure of criminal convictions during employment**

- 6.1. All members of University staff are required to disclose criminal convictions acquired during their employment. Failure to do so may be considered gross misconduct and could result in staff being dismissed.
- 6.2. Disclosure should be made to a Human Resources Partner or line manager, in confidence, who will consider the effect of the offence on the employee's post in line with the process identified in Appendix 3. Where such a disclosure is considered to impact on the ability of the University to continue to employ a member of staff, then the disclosure will be managed through the University's Staff Disciplinary Procedure or another process as relevant. Depending upon the nature and circumstances of the conviction, consideration will be given to the availability of suitable alternative employment.
- 6.3. Disclosures relating to children will be referred to the Lead Designated Officer as referred to in the [University's Safeguarding Policy and Procedures](#).
- 6.4. In certain circumstances, the University is required to refer information to the DBS about individuals who may pose a risk. This will be undertaken in line with DBS guidance on making referrals.

## **7. Secure storage, handling, use, retention and disposal of disclosures and disclosure information**

- 7.1. The University is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and is stored and handled appropriately and in accordance with the provisions of data protection legislation. Disclosure information will only be shared with those who are authorised to receive it in the course of their duties.
- 7.2. Disclosure information including information on criminal convictions are treated as special category data as defined in the General Data Protection Regulation (GDPR).
- 7.3. The University will ask to see the original disclosure certificate. In exceptional circumstances the original disclosure certificate may be kept for the purposes of progressing a recruitment or employment related decision.
- 7.4. Once a recruitment (or other relevant) decision has been made, the disclosure certificate will not be kept for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in exceptional circumstances, it is considered necessary to keep disclosure information for longer than six months the DBS will be consulted about this. Once the retention period has elapsed, any disclosure information held will be destroyed securely.

7.5. A record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested (including whether barred lists checks were obtained), the position for which the disclosure was requested, the unique reference number of the disclosure and the details of the decision taken will be kept.

## **8. Review**

8.1. This policy will be reviewed in five years, unless changes need to be made in advance for statutory requirements.



**APPENDIX 1** – The Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012 refers to the definitions of regulated activity relating to children.

<b>Regulated Activity for Children</b>		
<b>Type of Regulated Activities</b>	<b>Description of Activities</b>	<b>Frequency required</b>
Unsupervised Activities	<p>These activities are teaching, training, instructing, caring for or supervising children or providing advice / guidance on well-being or driving a vehicle solely for children.</p> <p>NB: If work is regularly supervised by a person in regulated activity then the work is not considered to be regulated activity. Regularly supervised means that it must be on-going rather than concentrated during the first few weeks of activity.</p>	This will be regulated activity if carried out regularly. Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am).
Working for a limited range of establishments (specific places)	<p>These establishments give the opportunity for contact with children including schools, children’s homes, children’s detention centres and childcare premises.</p> <p>N.B. If a volunteer is regularly supervised by a person in regulated activity then the work is not considered to be regulated activity. Regularly supervised means that it must be ongoing rather than concentrated during the first few weeks of activity.</p>	This will be regulated activity if carried out regularly. Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am).
Healthcare	Healthcare for children provided by, or under the direction or supervision of a regulated health care professional for example doctors, nurses and others in specified regulated Healthcare bodies.	This will be regulated activity if only carried out once.
Personal care	Personal care for children involving hands-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising a child with any of these tasks because of their age, illness and disability or teaching someone how to do these tasks.	This will be regulated activity if only carried out once.
Registered child-minders, registered foster carers and day to day management or supervision of any person engaging in regulated activity is also regulated activity.		
There is usually no requirement for an organisation to check staff who may have contact with students on work experience.		
Individuals who go into different schools or similar settings to work with different adults should not be required to have a DBS check for regulated activity unless their contact with the same group is frequent or intensive.		

**APPENDIX 2 – Jobs at the University that are likely to require a DBS Check**

<b>Job Title</b>	<b>School / Service</b>	<b>Type of Check</b>	<b>Children's Barred List</b>	<b>Adults Barred List Check</b>	<b>Responsibility for conducting DBS checks</b>
**Academic Staff, *Lecturers, Apprentices.	The London Geller College of Hospitality and Tourism	Enhanced	Yes (if undertaking work with children)	No	HR Department
**Academic Staff, *Lecturers, Volunteers, Technicians, Lecturers, Researchers, LCM Examiners.	London College of Music (LCM) & the Junior Music School	Enhanced	Yes (if undertaking work with children)	No	HR Department
**Academic Staff, *Lecturers, Researchers including Social Work who supervise trainee social workers on placement.	School of Human and Social Sciences (Social Work only)	Enhanced	Yes (if undertaking work with children)	No	HR Department
**Academic Staff, *Lecturers, Researchers in the College of Nursing and Midwifery.	College of Nursing and Midwifery	Enhanced	Yes	Yes	HR Department
**Academic Staff, * Lecturers who teach / supervise students who are under the age of 18 at least once a week or on at least 4 days in any 30 day period.	Any	Enhanced	Yes	No	HR Department
Well-being Advisors	Student Services	Basic	No	No	HR Department
Interfaith Advisor and Counsellors.	Student Services	Enhanced	Yes (if undertaking work with children)	Yes (if undertaking work with vulnerable adults as advised by a health care professional)	HR Department

Outreach teams, Events, Summer School and Recruitment Staff	Marketing	Enhanced	Yes (if undertaking work with children)	No	HR Department
Student Ambassadors <b>(only if involved in regulated activity with children or vulnerable adults)</b>	Marketing	Enhanced	Yes	Yes	HR Department
Post which require a DBS check because of a legal / contractual requirement with an external body e.g. OFSTED / NHS	All areas	Enhanced	Yes (if undertaking work with children)	Yes (if undertaking work with vulnerable adults)	HR Department
Temporary and Agency Staff <b>(only if involved in regulated activity with children )</b>	All areas	Enhanced	Yes (if undertaking work with children)	Yes (if undertaking work with vulnerable adults)	Head of Schools / Dept.

\*including hourly paid Lecturers (HPLs) and Senior Lecturers

\*\*including Professors and Academic Management Staff

**The University counter signatories in the HR Department are:**

Savita Chambore (Staff) and Deborah McGauran (Staff)

### **Appendix 3 - Procedure for handling a disclosure of a criminal record of current employees**

Decision process for current or employees with a conviction, caution or reprimand.

1. The decision will be taken by a panel comprising the Head of School or Department / Director and another appropriate senior manager (i.e. a senior manager from a different School or Department) and a senior Human Resources Manager.
2. The basis of the decision will take into account the following principles to decide whether the offence(s):
  - Constitute(s) a risk to the safety and / or well-being of other employees, students or people outside the University that the role holder will be required to be in contact with as part of their role
  - Disbar(s) or may disbar the individual from being a member of their professional body, as required in their role
  - The relevance of the offence to the individual's role in the University

In addition the following points will be taken into account:

- The length of time since the offence was committed
  - Whether the individual has re-offended and if there is a pattern of re-offending
  - Whether the offence was disclosed
  - The degree of risk posed to students, colleagues, or, where relevant, service users e.g. employees in Nursing and Midwifery,
  - The applicant's explanation of the offence
  - The employee's employment record.
3. The manager will ascertain details of the offence from the employee either through a discussion or by obtaining a statement from them. The panel (see 1. above) will review the details of the offence in relation to the points above and record the basis of their decision. Their decision will be discussed with the Head of Human Resources and approved but the relevant VCE member.
  4. The decision will be communicated to the employee accordingly. If the decision of the panel is to recommend that the matter be investigated under the disciplinary procedure, a meeting will be held in line with the University's Disciplinary Procedure and the employee will have the right to appeal as appropriate under this procedure.

**Appendix 4 - Risk Assessment Form (To be used in very exceptional circumstance only)**

**CONFIDENTIAL**

*To be carried out and completed by Line Managers where an employee may, pending the outcome of this assessment, commence work prior to Disclosure and Barring Service (DBS) clearance being obtained. This is only applicable to posts where DBS clearance is required.*

**Position**

Line Manager	<input type="text"/>	School / Department:	<input type="text"/>
Post Title:	<input type="text"/>		
Will role involve contact with Children & Young People *	Yes <input type="checkbox"/> No <input type="checkbox"/>	Will role involve contact with Vulnerable Adults **	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Applicant / Employee Name**

**Reason for Request**

**Risk Assessment**

Has a risk assessment been undertaken? Yes  No

<p>Please provide clear and comprehensive details confirming why exceptional circumstances should be applied to the applicant / employee starting work without appropriate DBS clearance. Current UWL staff that move roles involving contact with and / or supervision of Children, Young People and Vulnerable Adults will require a DBS check prior to taking up their new roles.</p>	<p>Please provide details of risk evaluation undertaken, for example, no unsupervised contact with children, references seen, no previous unexplained gaps in work history or CV, previous clear disclosure seen including record of a DBS number (***)use the continuation space as required)</p>

**Declarations**

**Line Manager**

*As the Line Manager I believe that any further delay in this employee undertaking their duties will have a serious impact on the School / Department's ability to carry out its designated role. I understand the significance of the employee starting work prior to full disclosure being received in the context of the requirements of the [University's Safeguarding Policy and Procedures](#). I take ownership of accountability under these circumstances in ensuring that the employee is supervised when undertaking regulated activity.*

Signed:	<input type="text"/>	Position:	<input type="text"/>
Print Name:	<input type="text"/>	Date:	<input type="text"/>

2 References seen:  Previous DBS Clearance (less than 3 months old) seen:

**HR USE ONLY**

Request To DBs:	Enhanced <input type="checkbox"/> Standard <input type="checkbox"/>	Date Sent:	<input type="text"/>
Date Received:	<input type="text"/>	Employee clear to continue employment	Yes <input type="checkbox"/> No <input type="checkbox"/>

## Definitions

\* *Children & Young People: this means under 18's. Occasional contact such as with work experience students may not constitute contact with children.*

\*\* *Vulnerable Adults: this means a person who is age 18 year or over, in receipt of social, healthcare or other services, which puts a person in close contact with them.*

\*\*\* Risk Assessment undertaken (continuation sheet)

## **Additional information**

Further information can be found on The Department for Education published document "Keeping children safe in education - Statutory guidance for schools and colleges July 2015" can be viewed on the following link: ["Keeping children safe in education"](#)

## **What is regulated activity?**

In summary, a person will be considered to be engaging in regulated activity if as a result of their work they:

- will be responsible, on a regular basis for teaching, training instructing, caring for or supervising children (under 18 year olds) ; or
- will carry out paid, or unsupervised unpaid, work regularly in a school or college (teaching institution) where that work provides an opportunity for contact with children (under 18 year olds); or
- engage in personal care or overnight activity, even if this happens only once.

Similarly, if a person working at the school or college (teaching institution) moves from a post that was not regulated activity, into work which is regulated activity, the relevant checks for the regulated activity must be carried out.

When utilising agency workers – written information from the agency needs to be obtained to satisfy the enhanced DBS check requirement. In recruiting or engaging candidates that have worked abroad for a significant period – the Line Manager must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.

**Where a School or College (teaching institution) allows an individual to start work in regulated activity before the DBS certificate is available, then the Line Manager should ensure that there is day to day and regular supervision of the individual.**

In situations when staff or potential staff are engaging in regulated activity an enhanced DBS and barred list is required.

### **Additional information for Managers**

There should be a number of safeguards to protect the University and students:

- A clear business case for the appointee to start prior to all the screening being completed given the possible safeguarding risks;
- **There should be no unexplained gaps in the employment history or CV of the individuals concerned;**
- That no relevant criminal convictions have been declared on the application for employment;
- The University have received all references to our satisfaction;
- **Verification that that person is who they say they are and that appropriate checks have been made on identity with photographic evidence i.e. passport and birth certificate checks (in case there is a name change by deed poll – convictions will not show on the DBS check under a new name).** Right To Work (RTW) check may cover this, speak to the relevant Human Resources Partner for additional information;
- Satisfactory qualifications check have been made (relevant to the job) – this would form part of the recruitment process already;
- There should be NO unsupervised 1:1 contact with students under 18 until the DBS has been cleared – the recruiting manager / line manager will need to undertake to ensure that this is the case.

Email the Head of Human Resources, with this Risk Assessment form for the appointee to start before the DBS check has been completed (weighing up operational need for the resource with Safeguarding risks and how these can be managed). The relevant Human Resources Partner or Human Resources Co-ordinator will liaise with the recruiting manager / line manager thereafter.